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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/900,489	07/05/2001	Mary B. Phelps	243768061US	4188

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EXAMINER

GRAYSAY, TAMARA L

ART UNIT

PAPER NUMBER

3623

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/900,489

Applicant(s)

PHELPS ET AL.

Examiner

Tamara L. Graysay

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) (2 pages).
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date (1 page).

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. The drawings are objected to because of the following:
 - a. They fail to comply with 37 CFR 1.84(m) because the shading (Fig.1-7) does not aid in understanding the invention and reduces legibility.
 - b. They fail to comply with 37 CFR 1.84(m) because solid black shading (Figs.1-7) is not permitted.
 - c. Figure 4 as originally filed had lined through the first line in section 601, however, the replacement drawings have re-instated the text. Applicant is requested to verify the content of the drawing figure.
 - d. They fail to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 705 (Fig.7, lower left quadrant); 900 (Fig.9, upper right quadrant); 1411 (Fig.14, lower right quadrant).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:
 - a. The use of acronyms is acceptable, however, it should be spelled out at least at its first occurrence (e.g., [0024] LD rates, EHS; [0029] HTTP; [0030] CD-ROM; [0034] dba; [0035 – Table 3] HRSG, Figure 16 ISO/NR, etc.).
 - b. The description of decision block 1406 is inconsistent with that depicted in figure 14 because the figure depicts the low noise package is being offered, then the component continues at block 1408 (not 1407 as mentioned in the specification at [0041]). Applicant is required to clarify the specification and/or drawings in response to this Office action.
 - c. Similarly, the description of decision block 1408 does not appear to be consistent with that depicted in figure 14. Applicant is required to clarify the specification and/or drawings in response to this Office action.
 - d. Further, in figure 14, the “<” symbol is used in decision block 1410 whereas the specification indicates greater than.
 - e. Page 17, [0042] line 2, “1301” should be 1501.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-5, 8-18, 21-30, and 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (article, Requirements for an effective project risk management process).

Ward discloses a four process for project risk management including risk identification, risk quantification, risk response development and risk response control (p.37, left column) and a nine component process for project risk management including defining the project, focusing the risk management process, identifying the risks and responses, testing the assumptions of project risk management, clarifying the roles of persons associated with the risk management process, estimate the importance or level of each risk evaluate the possible outcomes of the responses to each risk, produce a report and explanation of the risk management plan, and manage the risk management plan by monitoring and controlling progress. These steps are indicative of the process that is generally used for assessing risk of a project.

The claimed steps of providing rules and associated mitigating factors; receiving information describing the project including risk type data; identifying high risk factors and identifying mitigating factors for the high risk factors; and generating a risk assessment report are met by identifying risk responses for each risk (page 37 left column, Table 1); each aspect of the project could have an influence on the risk management process (p.38, left column); and classifying risks and responses (Table 1). Further, Ward meets the step of identifying risk factors insofar as Ward describes in Table 1 searching for, i.e., identifying, sources of risk as well as secondary risks. Further, merely using a computer to automate a known process does not by itself impart nonobviousness to the invention. See *Dann v. Johnston*, 425 U.S. 219, 227-30, 189 USPQ 257, 261 (1976); *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958).

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Although the body of the claim does not positively recited manipulation of any computer components, performing the method “in a computer system” as set forth in the preamble would not impart nonobviousness to the claimed process which is otherwise disclosed in the prior art or obvious in view of the prior art.

Ward is silent as to the particular output of the project risk management process, however, the examiner takes Official notice that the use of reports is common in the project management and risk assessment field of endeavor in order to have a record of information and to facilitate sharing information with others. As such, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the Ward process to include generating a risk assessment report including risk (sources of risks, risks, and secondary risks) factors and mitigating (responses) factors in order to have a record of the information that was used in reaching a decision about project risk management and to facilitate distribution of the information.

Regarding claim 2, the examiner takes Official notice that in the business field, the analysis of broad and detailed information throughout a business is well known in order make decisions regarding projects undertaken by the business. It is inherent in business management that the specificity of the information on which decisions are based can have an affect on the decision itself and the recommendations therefrom. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ward to include an overall project information as well as detailed project information in order to ensure that all aspects of the project have been considered.

Regarding claim 3, merely using a computer to automate a known process does not by itself impart nonobviousness to the invention. See *Dann v. Johnston*, 425 U.S. 219, 227-30, 189 USPQ 257, 261 (1976); *In re Venner*, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ward to include software to implement the risk factor determination rules in the computer system.

Regarding claims 4 and 8-11, the examiner takes Official notice that the process steps including providing tables, persistently storing information, receiving auxiliary data, in either spreadsheet or graph format are well known in the art of computer-related inventions in order to retrieve stored data from the computer system in a manner that is suitable for the audience that is reviewing the data. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ward to include tables and fields containing information, and auxiliary data in the form of spreadsheets or graphs, about the risk assessment in order to retrieve and consider the information during and after the risk analysis.

Regarding claim 12, the examiner takes Official notice that the timing and focus of a risk assessment is within the level of ordinary skill in the business art including the contract phase. The determination of whether to proceed with execution of a contract is an integral part of a business decision-making process and to include the assessment of risk in that decision would have been within the level of ordinary skill in the art. Therefore, it would have been obvious to

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one of ordinary skill in the art at the time the invention was made to modify Ward to include assessment of a proposed contract, such as that which is well known in the business art in order to make a determination whether to proceed with a project depending on the risk level that is determined by the risk assessment at the proposal of a contract.

The system claims 13-18 and 21-25 are nonobvious for the same reasons as noted with regard to the process claims 1-5 and 6-12 above. Further, regarding claim 14, the recitation of nonfunctional descriptive material in the system claim is of no patentable weight insofar as the nonfunctional descriptive material (report identifying risk factor and mitigating factors) are merely data.

The computer readable medium apparatus claims 26-30 and 33-37 are nonobvious for the same reasons as noted with regard to the process claims 1-5 and 8-12 above.

4. Claims 6, 7, 19, 20, 31, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward (article, Requirements for an effective project risk management process) in view of Head (text, The risk management process).

Head teaches (page 70 for example) the analysis of risk by a risk manager with the aid of other interested executives, who presumably are affected by the risk, or the mitigation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ward to include input and analysis from interested parties, such as taught by Head, in order to ensure accuracy of information considered in the risk analysis.

Regarding claim 7, the examiner takes Official notice that the determination of scope of a report that is generated for any business endeavor is within the level of ordinary skill in the business art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Ward to include the analysis by designated users.

The system claims 19-20 are nonobvious for the same reasons as noted with regard to the process claims 6-7 above.

The computer readable medium apparatus claims 31-32 are nonobvious for the same reasons as noted with regard to the process claims 6-7 above.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- Rutgers (article, Project risks and risk allocation) describes rules to and factors in risk management including understanding that risk implies mitigation (e.g., page 29 right col.).
- Mills (article, A systematic approach to risk management for construction) describes systematic risk management to make informed decision on the provision for adversity or mitigation measures (page 245 right column, reference to Godfrey (1996)).

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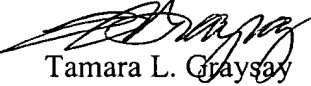
- Spencer Pickett (article, The manager's guide to internal control: diary of a control freak) describes high risk ratings are considered more important (than low risk ratings) and are controlled or mitigated if possible by applying suitable controls (page 106 right col.); further, the degree of risk determines which area is given attention (page 185, right column, and page 188, figure 61); and the use of risk management for an overall project (page 193, left col.).
- Smith (article, Managing risk as product development schedules shrink) mentions that identifying risks and choice of solutions are the most effective risk management tools (p.25, right col.); utilization of a comprehensive or overall risk management program (p.25, left col. and p.30, right col.); risk level is basic criterion for deciding whether to undertake a project (p.27, right col.); risk prioritization and tracking (p.28); taking on high risk tasks likely to have greatest impact before others (p.31, right col.).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tamara L. Graysay whose telephone number is (571) 272-6728. The examiner can normally be reached on Mon - Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 6/13/05
Tamara L. Grayson
Examiner
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